D.B. CIVIL SPECIAL APPEAL(W)NO.622/2006

Rameshwar Prasad Sharma
Vs.
Sub Divisional Officer, Malpura

DATE OF ORDER :: 15-02-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Raghunandan Sharma, for the appellant.
Shri Saransh Saini, for the respondent.

The appellant claims right of Sewa Pooja in Shri Kalyan temple at Malpura, district Tonk by succession on the death of one Gulab Devi. On 13.5.2006, the Sub Divisional Officer, Malpura passed an order directing Tehsildar Malpura to get the articles like rice, mishri, makhana, coconut, agarbatti offered in Pooja auctioned and deposit the proceeds in the Kalyan trust, Diggi. One Bharatlal Sharma, Satya Narayan Sharma, Ram Kalyan Sharma, Subhas Sharma were authorised for doing Sewa Pooja. The charge of the temple was placed with the present pujari Bharatlal and others.

Aggrieved by the said order, appellant filed writ petition. Observing that the writ petition involves several disputed questions of fact the learned Single Judge dismissed the writ petition. The learned Judge however gave liberty to the appellant to move application before the Sub Divisional Officer for appropriate direction.

After hearing counsel for the parties, we are in agreement with the learned Single Judge that the writ petition involves disputed questions of fact which cannot be decided in writ jurisdiction. The proper remedy for the appellant, if so advised, is to file a civil suit and seek declaration of his rights.

With this observation, the appeal is dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen